

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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|---|---------------------------------|---|
| IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION THIS DOCUMENT RELATES TO: <i>“Track One Cases”</i> |))))))) | CASE NO. 1:17-MD-2804 SPECIAL MASTER COHEN <u>ORDER REGARDING</u> <u>EXHIBIT AND WITNESS LISTS</u> |
|---|---------------------------------|---|

The parties have submitted exhibit and witness lists for the upcoming bellwether trial. The chart below shows the number of exhibits and witnesses currently listed.

| Party | Witnesses | Exhibits |
|--|-----------|----------|
| Two Plaintiffs as a group | 84 | 25,378 |
| Six Defendant Families as a group | 200 | 31,651 |
| subtotal: Six Defendant Families’ Individual Lists | | 9,833 |
| subtotal: Six Defendant Families’ Additional Joint List | | 21,818 |

These numbers of witnesses and exhibits are obviously unrealistic. Neither Plaintiffs nor Defendants can possibly present anywhere near the number of witnesses listed during the available time at trial; and it is even less possible they could present to the jury even a substantial fraction of the number of listed documents. The Special Master understands that the parties must list witnesses and exhibits they may not use, because their presentations will evolve. But the numbers above are so excessive they provide no idea to opposing counsel or the Court regarding what actual trial presentations might be.

Accordingly, the Special Master rules as follows. By 5:00 p.m. on Saturday, October 5, 2019, the parties will reduce the number of exhibits and witnesses on their lists as follows.

| Party | Witnesses | Exhibits |
|-----------------------------------|------------------|-----------------|
| Two Plaintiffs as a group | 65 | 4,000 |
| Six Defendant Families as a group | 150 | 17,000 |

The Special Master concludes that: (1) even these numbers represent far more than can actually be presented at trial; (2) the reductions chosen are fair to all parties; and (3) all parties will still have ample evidence to present their case.

The parties are directed ***not*** to re-number their exhibits; those exhibits that remain on the lists will retain the same exhibit numbers they have on the current lists. If, at trial, a party believes good cause exists to use an exhibit that was originally listed but was removed, the party may seek permission from opposing counsel and/or the Court to use that exhibit. The normal rules regarding use of evidence for impeachment will still apply.

If additional defendants settle before trial, the undersigned or the Court may reduce these numbers further.

RESPECTFULLY SUBMITTED,

/s/ David R. Cohen

David R. Cohen
Special Master

Dated: October 1, 2019